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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,644	02/23/2004	Zarng-Arh George Wu	07783.0063.CPUS02	2380

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HOWREY LLP
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FALLS CHURCH, VA 22042-2924

EXAMINER

KOPEC, MARK T

ART UNIT	PAPER NUMBER
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1751

MAIL DATE	DELIVERY MODE
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06/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/785,644

Applicant(s)

WU ET AL.

Examiner

Mark Kopec

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-32 and 55-77 is/are pending in the application.
- 4a) Of the above claim(s) 29-31 and 65-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-28, 55-64, 69-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This action is responsive to applicant's amendment/remarks filed 03/28/07. Claims 22-32, 55-77 are currently pending with claims 29-31 and 65-68 withdrawn from consideration (non-elected species).

The instant claims are accorded a priority date of 02/23/04 (the filing date of the instant application).

The Terminal Disclaimer filed 03/28/07 is entered. The provisional ODP rejection over 11/062,245 is withdrawn.

The prior art rejections over Shibuta (5,908,585) or Glatkowski (Carbon nanotube based transparent conductive coatings) are withdrawn in view of applicant's amendments and remarks. Specifically, the instant claims now require a specific electrophoretic display structure including at least one electrode protecting layer disposed between the electrophoretic fluid and the electrode layer. Such is neither disclosed or suggested in the above prior art.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 22, 23, 28, 55-58, 64, 69-71, 76 and 77 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogata et al (4,466,701).

This rejection is maintained for the reason set forth in the Rejection mailed 12/29/06 (pages 6-8).

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Applicant's remarks regarding this rejection are noted. Specifically, applicant argues that Ogata is directed to LCD devices, and does not disclose the claimed limitation "at least one electrode protecting layer disposed between the electrophoretic fluid and the electrode layer".

The examiner respectfully submits that Ogata meets the instant claim limitations. The reference specifically discloses electrophoretic display devices in addition to LCD (Col 2, lines 39-42), and the "protective layer" is positioned between the fluid and the electrode layer. See Figs 4-5 (protective layer 10 is clearly between the fluid 7 and the electrode 3). The reference specifically teaches "The protective layers 10 are located so that they overlap partially with the sealing materials 6 and they completely cover the lead terminals" (Col 6, lines 10-17).

Note the following new grounds of rejection.

Claims 24-27, 59-63, and 72-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogata et al (4,466,701).

Ogata is relied upon as set forth above. The reference fails to specifically disclose the instantly claimed (nanometer) particle size(s).

The examiner respectfully submits that the skilled artisan would have to utilize only routine experimentation to arrive at

the claimed values. The reference clearly suggests that the conductive particle should be smaller than the gap between the base plates of a few μm (Col 4, lines 35-43). "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

In view of the foregoing, the above claims have failed to patentably distinguish over the applied art.

Applicant is reminded that any evidence to be presented in accordance with 37 C.F.R. 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Kopec whose telephone number is (571) 272-1319. The examiner can normally be reached on Monday - Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Kopec/
Primary Examiner
Art Unit 1751

MK

June 7, 2007